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9 **UNITED STATES DISTRICT COURT**  
10 **NORTHERN DISTRICT OF CALIFORNIA**  
11 **SAN FRANCISCO DIVISION**

12 DONALD WORTMAN, WILLIAM  
13 ADAMS, MARGRET GARCIA,  
14 individually and on behalf of all other  
similarly situated,

15 Plaintiffs,

16 v.

17 AIR NEW ZEALAND LTD.; ALL  
NIPPON AIRWAYS CO. LTD; CHINA  
18 AIRLINES, LTD.; EVA AIRWAYS  
CORPORATION; JAPAN AIRLINES  
19 INTERNATIONAL CO. LTD.;  
MALAYSIA AIRLINE SYSTEM  
20 BERHAD; QANTAS AIRWAYS, LTD.;  
SINGAPORE AIRLINES, LTD.; and  
21 THAI AIRWAYS INTERNATIONAL  
PUBLIC COMPANY, LTD.,

22 Defendants,

Case No. CV-07-5634 (CRB)

MDL No. 1913

**PLAINTIFF MARK FOY'S  
ADMINISTRATIVE MOTION TO  
RELATE CASES**

23 This Document Relates to:

24 *Mark Foy v. Air New Zealand, et al.*,  
25 Case No. CV-07-6219 (EDL)

Pursuant to Local Rule 3-12, Plaintiff Mark Foy submits this administrative motion to consider whether *Foy v. Air New Zealand, et al.*, Case No. CV-07-6219 (EDL), a putative class action lawsuit filed on December 7, 2007, should be related to *Donald Wortman, et al. v. Air New Zealand Ltd., et al.*, Case No. CV-07-5634 (CRB), filed on November 6, 2007.

Local Rule 3-12(a) provides that actions are related when:

- (1) The actions concern substantially the same parties, property, transaction or event; and
- (2) It appears likely that there will be an unduly burdensome duplication of labor and expense or conflicting results if the cases are conducted before different Judges.

The *Foy* and the *Wortman* actions satisfy that criteria. Each case is a proposed class action alleging a conspiracy to fix, raise, maintain and/or stabilize the prices for long-haul passenger transportation services on transpacific flights to and from the United States, and to fix fuel surcharges on such transportation.<sup>1</sup> Each case involves substantially the same defendants, who are many of the major airlines providing long-haul passenger transportation services on transpacific flights to and from the United States. This Court has already found that three other similar actions are related to the *Wortman* action, and on February 19, 2008, the Judicial Panel on Multidistrict Litigation issued an order centralizing all related actions before this Court. Were *Foy* to proceed independently, it would result in a tremendous amount of duplicative motions and discovery concerning the same questions of fact and law involved in *Wortman* and related cases, and would create the unnecessary risk of inconsistent results.

Accordingly, *Foy* should be ordered related to *Wortman* pursuant to Local Rule 3-12(f), and *Foy* assigned to the Honorable Charles R. Breyer, the judge assigned to *Wortman*. It appears highly likely that there would be an unduly burdensome duplication of labor, expense, and/or conflicting result if the two putative class actions were tried before different judges.

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<sup>1</sup> Copies of the respective complaints are attached the accompanying Declaration of Aaron M. Sheanin as Exhibits A and B.

1 Accordingly, the cases should be considered related within the meaning of Local Rule 3-  
2 12(a).

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4 DATED: February 20, 2008

**GIRARD GIBBS LLP**

5 /s/ Aaron M. Sheanin

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